

**Amendment No. 3 to SB2624**

**Henry  
Signature of Sponsor**

**AMEND Senate Bill No. 2624**

**House Bill No. 2286\***

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. The title of this act is, and may be cited as, "The TennCare Reform Act of 2002".

SECTION 2. Tennessee Code Annotated, Section 71-5-106, is amended by adding the following as new subdivisions:

(l) Not later than January 1, 2003, the bureau of TennCare or its designee shall verify the eligibility for TennCare of all enrollees on annual basis.

(m) To the extent permitted by federal law, the state may impose a reasonable fee for costs of eligibility determinations for applicants applying for medical assistance as part of the medically eligible expansion population under the TennCare waiver.

(n) In the TennCare waiver expansion population, except for persons medically eligible as uninsurable persons, enrollment shall not be permitted for individuals from households with incomes of greater than two hundred fifty percent (250%) of federal poverty levels.

(o) Except as may be required by federal law, after the effective date of this act, no person eighteen (18) years of age or older shall be eligible to receive TennCare benefits as a part of the waiver's expansion population if such person is eligible to participate in a group insurance plan offered through an employer, a family member's employer, a professional association or school, or have access to medicare or COBRA coverage.

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(p) Not later than January 1, 2003, all determinations of eligibility for persons medically eligible as uninsurable in the TennCare waiver's expansion population shall be made on the basis of health condition based upon a review of medical records.

SECTION 3. Tennessee Code Annotated, Section 71-5-102, is amended by designating the existing language of the section as subsection (a) and by adding the following as a new subsection (b):

(b)

(1) Except as may be required by federal law or regulation, it is hereby declared to be the public policy of the state of Tennessee that participation in the TennCare program, or its successor programs, is not an entitlement and is conditional upon, among other things, specific appropriations for the program.

(2) Not less than annually, the governor shall recommend and the general assembly may, through provisions of the general appropriations act, prioritize the funding for the TennCare program in a manner which specifies that funds are available to:

(A) continue coverage for enrollees currently in the program;

(B) extend coverage to potential new enrollees, or categories thereof, at current, higher or lower income levels; or,

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(C) withdraw coverage from all enrollees not eligible for  
Medicaid.

(c) Continuation, extension and withdrawal of coverage for enrollees in  
the TennCare program shall be determined in accordance with such priorities, if  
any, established by the general assembly in the general appropriations act.

SECTION 4. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is  
amended by adding the following as new sections:

Section 71-5-192. On or before January 1, 2004, a comprehensive,  
integrated information management system will be operational for the bureau of  
TennCare. Not less frequently than quarterly, the office of information resources  
in the department of finance and administration shall provide progress  
assessments concerning such system to the information systems council (ISC)  
and the fiscal review committee.

Section 71-5-193. There shall be established a TennCare advisory  
board, appointed by the governor, comprised of not less than twelve (12) nor  
more than fifteen (15) individuals who shall be representative of health care  
providers, business leaders and health care consumers. The board shall provide  
advice and direction to the bureau of TennCare in the management of the  
TennCare program. At least quarterly, the bureau of TennCare and the  
department of commerce and insurance shall present to the board an update on  
compliance by participating managed care organizations with statutory and  
contractual requirements, including, but not limited to, prompt payment of claims,

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network adequacy and provision of non-network essential services. The governor shall determine the terms and organizational structure of the board and will strive to ensure racial and gender diversity.

SECTION 5. Any costs associated with the implementation of this act, except as to the costs of the Medicaid Fraud Control Unit of the Tennessee bureau of investigation, shall be paid from existing funds appropriated to the TennCare program.

SECTION 6. Tennessee Code Annotated, Section 71-5-110, is amended by adding the following language at the end of subsection (b):

To the extent permitted by federal law, the application of a self-employed individual for medical assistance as a part of the TennCare program shall include a copy of the individual's most recent federal income tax return.

SECTION 7. Tennessee Code Annotated, Section 71-5-118, is amended by adding the following as a new subsection (g):

(g) The bureau of TennCare shall establish, through its Program Integrity Unit, a system to randomly investigate persons involved in the medical assistance program to monitor for violations of subsection (b) by such persons. The Program Integrity Unit shall investigate applicants, employers, providers and other persons involved in the medical assistance program. Violations of subsection (b) shall be regarded as TennCare fraud and the Program Integrity Unit shall refer appropriate cases of fraud to any appropriate law enforcement agencies, including the Tennessee bureau of investigation, for appropriate

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action. The Program Integrity Unit shall report concerning the activities of the investigative program to the house and senate judiciary committees on or before January 30th of each year.

**SECTION 8.**

(a) The fiscal review committee, in consultation with the bureau of TennCare and the select oversight committee on TennCare, shall study the feasibility of outsourcing eligibility determinations and reverifications for the TennCare expansion population, including requesting information from potential contractors. It is the legislative intent that information from interested potential contractors be received by October 15, 2002.

(b) The fiscal review committee, in consultation with the bureau of TennCare and the select oversight committee on TennCare, shall evaluate the responses from potential contractors and shall, no later than January 1, 2003, shall report its findings to the general assembly, the commissioner of finance and administration, the comptroller of the treasury and the governor, relative to whether eligibility and re-verification services should be contracted and procured through competitive proposals.

**SECTION 9.** Tennessee Code Annotated, Section 71-5-116, is amended by adding the following amendatory language at the end of subsection (c):

To facilitate and enhance compliance with this subsection, the department of health shall promptly notify the bureau of TennCare, in a format to be specified by the bureau, of the death of any individual fifty-five (55) years of age or older. Such notification shall include the decedent's name, date of birth, and social

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security number. It is the legislative intent of this subsection that the bureau of TennCare strive vigorously to recoup any TennCare funds expended for a decedent after the date of death

SECTION 10. Tennessee Code Annotated, Section 71-5-118, is amended by adding the following amendatory language as a new subsection to be appropriately designated:

( ) Without regard to any other civil or criminal liability that might attach, by operation of this section or any other law, to an enrollee or applicant's action in obtaining medical assistance or any assistance under this part, to which such person is not entitled, the bureau of TennCare shall have an administrative remedy for the recovery of the amount of any medical assistance benefits or payments improperly paid as a result of any misrepresentation made by such person, to the extent that such amount has not otherwise been recovered by the bureau. The bureau shall also have a right to recover in such administrative proceedings its reasonable costs and attorneys' fees, as well as interest on the amount owed by the person, calculated from the date that medical assistance was improperly paid. Any action against such person shall be treated as a contested case in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. In an administrative action under this subsection, the bureau shall show that the amount sought to be recovered was paid in the form of medical assistance as a result of material misrepresentation by the

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person against whom recovery is sought, but the bureau need not show that such misrepresentation was intentional or fraudulent.

SECTION 11. Tennessee Code Annotated, Section 71-5-118, is further amended by adding the following amendatory language as a new subsection to be appropriately designated:

( ) There is established within the criminal investigation division of the Tennessee bureau of investigation a "Medicaid Fraud Control Unit", which is separate and distinct from the state Medicaid agency. As regulated by federal law, the unit is authorized to investigate and refer for prosecution violations of all applicable laws pertaining to fraud in the administration of the Medicaid program, the provision of medical assistance or the activities of providers of medical assistance under the State Medicaid plan; Medicare fraud; and abuse or neglect in healthcare facilities receiving payments under the State Medicaid plan, such as board and care facilities as allowed by federal law. A summary of the unit's work shall be included in the bureau's annual report and shall be submitted annually to the judiciary committees of the general assembly.

SECTION 12. Tennessee Code Annotated, Section 71-5-118, is further amended by adding the following amendatory language as a new subsection to be appropriately designated:

( ) The bureau of TennCare shall report annually in writing to the judiciary committees of the general assembly regarding its collection activities of the estate recovery and enrollee fraud and abuse provisions of this chapter.

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SECTION 13. Tennessee Code Annotated, Section 71-5-118, is further amended by adding the following amendatory language as anew subsection to be appropriately designated:

( ) All applicants for medical assistance under this part, and all applicants for reverification of eligibility to receive such assistance, shall receive a warning, in easily readable language, regarding the state recovery provisions, as well as the administrative, civil and criminal liability provisions of this chapter.

SECTION 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 15. This act shall take effect on July 1, 2002, the public welfare requiring it.